

# United States District Court

**FILED**

MAR 26 2008

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

Venue: SAN FRANCISCO

V.

FRANCISCO JAVIER VELASQUEZ-MORENO  
a/k/a Osvaldo Rivera-Garcia

## CRIMINAL COMPLAINT

3 08 70178  
CASE NUMBER:

**JCS**

I, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about April 12, 2007 in San Mateo County, in the Northern District of California, defendant willfully and knowingly made a false statement in an application for a passport with intent to induce or secure the issuance of a passport under the authority of the United States, either for his own use or the use of another, in violation of Title 18 United States Code, Section 1542.

I further state that I am a Special Agent of the Diplomatic Security Service and that this complaint is based on the following facts:

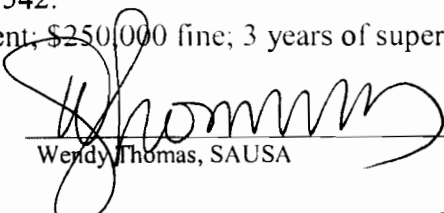
**See attached Affidavit in Support of Criminal Complaint**

### Maximum Penalties:

Title 18 USC Section 1542:

10 years of imprisonment; \$250,000 fine; 3 years of supervised release; and \$100 special assessment fee

APPROVED AS TO FORM:

  
Wendy Thomas, SAUSA

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Warrant of Arrest Requested:

☒ Yes ☐ No

Bail Amount: N/A

  
Signature of Complainant, William Alfano

Sworn to before me and subscribed in my presence,


March 26, 2008 at  
Date

San Francisco, California  
City and State

**Joseph C. Spero**

**United States Magistrate Judge**

Name & Title of Judicial Officer

  
Signature of Judicial Officer

NORTHERN DISTRICT OF CALIFORNIA )  
 ) ss. AFFIDAVIT  
CITY AND COUNTY OF SAN FRANCISCO )

**AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT CHARGING  
FRANCISCO JAVIER VELASQUEZ-MORENO, A/K/A OSVALDO RIVERA-GARCIA  
WITH VIOLATING 18 U.S.C. 1542,  
FALSE STATEMENTS IN APPLICATION AND USE OF PASSPORT**

I, William Alfano, as a duly sworn federal law enforcement officer, hereby depose and state as follows:

## Purpose

This affidavit establishes probable cause to arrest Francisco Javier VELASQUEZ-MORENO for False Statement in Application of a US Passport, in violation of 18 U.S.C. § 1542. Francisco Javier VELASQUEZ-MORENO is alleged to have applied for a United States passport in the false name of Osvaldo RIVERA-GARCIA. This affidavit does not contain every fact, piece of information or evidence concerning this alleged violation.

## Affiant Background

I am a Special Agent employed by the U.S. Department of State, Diplomatic Security Service ("DSS"). DSS Special Agents are empowered under Title 22 U.S.C. § 2709 to investigate passport fraud and to apply for and serve arrest warrants. I have a bachelor's degree from the University of California at Berkeley and I am a graduate of the Federal Law Enforcement Training Center's Criminal Investigator Training Program. I have received and receive on an ongoing basis, training in the laws, rules and regulations concerning passports, visas, and other citizenship documents.

### Relevant Statute

The Passport Act of 1926, as amended, was in full force and effect throughout the period of this investigation. This Act, codified in 22 U.S.C. § 211a, authorized the United States Secretary of State to grant and issue United States passports under rules prescribed by the President and/or other federal laws. Some of these rules are that a person wanting a United States passport must complete and submit an application to the State Department and must submit proof of American citizenship, usually a birth certificate, and proof of identity, usually a driver's license, with their application. Another rule allows officers at United States Post Offices to accept passport applications, and to then forward them to the State Department for processing.

Title 18 U.S.C. § 1542 states, in pertinent part, “Whoever willfully and knowingly makes any false statement in an application for a passport with intent to induce or secure the issuance of a passport under the authority of the United States, either for their own use

or the use of another, contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws...shall be fined under this title...or imprisonment not more than 10 years...or both.” Title 18 U.S.C. § 3291 provides for a ten year statute of limitations for passport offenses.

### **Facts Supporting Probable Cause**

1. On April 12, 2007, Francisco Javier VELASQUEZ-MORENO (“MORENO”) submitted a DS-11 application for a United States Passport (No. 029054288) at the Redwood City, California, Post Office, which is located in the Northern District of California. MORENO listed his name in the passport application as Osvaldo RIVERA-GARCIA. The application included a photograph and Social Security Number (ending in digits 0355). As proof of citizenship and identity, MORENO presented an original California Identification Card (No. D7360700) and an original Puerto Rico birth certificate (No. D1596888).

2. During the processing of this application, it was identified as possibly being submitted by an imposter. MORENO submitted his application (including a copy of a California Identification Card, No. D7360700, and an original Puerto Rico birth certificate, No. D1596888) and there were other fraud indicators present on the application, including that the defendant printed, rather than signed, his application. MORENO’s application was referred to the Department of State, Diplomatic Security Service (“DSS”) for criminal investigation.

3. On December 31, 2007, your affiant requested the Department of Homeland Security Biometric Services Center - West (DHS BSC – West) to conduct a search through the FBI Integrated Automated Fingerprint Identification System (IAFIS) database using SUBJECT’s right thumbprint from his California Identification Card (No. D7360700). DHS BSC – West identified that the print matches Francisco Javier VELASQUEZ-MORENO, FBI No. 222699HB4, born on XX/XX/1972, in Mexico.

4. MORENO was previously arrested on January 15, 2001, in Redwood City, CA, for driving without a license and on October 01, 1997, for petty theft. San Mateo County Sheriff’s Department provided your affiant with the January 15, 2001, booking photo, which bears significant resemblance to the photo provided in MORENO’s DS-11 passport application. San Mateo County Sheriff’s Department also faxed your affiant the arrest records which state his true name is Francisco Javier VELASQUEZ-MORENO, born on XX/XX/1972, in Jalisco, Mexico.

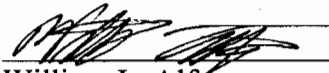
5. On December 31, 2007, your affiant conducted a search on a law enforcement database, the Treasury Enforcement and Communication System (TECS), which confirmed a person using the name of Osvaldo GARCIA RIVERA (Date of birth XX/XX/1973; SSN ending in digits 0355; FBI No. 395381VC6) was arrested on December 13, 2007, in Aguadilla, Puerto Rico, for violating an aggravated weapons law.

6. On January 15, 2008, your affiant sent a lead request to the DSS San Juan Resident Office to obtain the booking photo and arrest records for Osvaldo Rivera GARCIA, FBI No. 395381VC6, from the Aguadilla Police Department. Doris Cordero, DSS Task Force Agent at the San Juan Resident Office, emailed your affiant a booking photo and arrest records for Osvaldo Rivera GARCIA, which does not bear any physical resemblance to the photo provided by MORENO on his DS-11 passport application (No. 029054288). In addition, your affiant was provided a current copy of Osvaldo Rivera GARCIA's Puerto Rico Demographic Registry Record which verifies his parents' names and date of birth, reflecting the names used on MORENO's DS-11 passport application.


### **Conclusion**

I respectfully submit that the above presented facts established probable cause to believe that Francisco Javier VELASQUEZ-MORENO did submit a Social Security Number, Puerto Rico birth certificate and California identification card, all issued under the name Osvaldo RIVERA-GARCIA, as proof of identity when he submitted an application for a United States Passport in Redwood City, California. MORENO used these documents, which were not lawfully issued for his use, with the intent that such documents be used to defraud the United States, in violation of Title 18, United States Code, Section 1542, False Statement in Application and Use of Passport, while in the Northern District of California.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

  
William L. Alfano  
Diplomatic Security Service  
San Francisco Field Office

SUBSCRIBED AND SWORN BEFORE ME  
On March 26, 2008

  
The Honorable Joseph C. Spero  
U.S. Magistrate Judge  
Northern District of California